

March 22, 2007

D.C. Is Not A State!

Dear Colleague,

One thing you'll hear over and over again this week is "D.C. is not a state." It may surprise you to know that I agree, and nothing in the D.C. House Voting Rights Act would make it a "state." Throughout history, the Supreme Court has allowed Congress to treat D.C. as a state to give its citizens the same rights as other Americans.

The Supreme Court allowed Congress to:

- Impose federal taxes on the District notwithstanding Article I, Section 2, Clause 3 of the Constitution, which provides that "[r]epresentatives and direct taxes shall be apportioned *among the several States* which may be included within this union"¹
- Extend the Sixth Amendment right to trial by jury extends to the people of the District, even though the text of the Amendment states "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the *state* and district wherein the crime shall have been committed. . . ."²
- Prohibit district laws which interfere with interstate commerce "among the several *States*" stating that the Commerce clause applies equally to D.C. municipal statutes that interfere with commerce between the District and states.³
- Treat the District as a state for purposes of the Full Faith and Credit Clause, which provides that "[f]ull faith and credit shall be given in each *State* to the public acts, records, and judicial proceedings of every other *State*."⁴

The Constitution says, "The House of Representatives shall be composed of members chosen every second year *by the people of the several states*, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the *state* legislature."⁵

The words "state" and "states" in this section of the Constitution are not more magical than in any other section of the Constitution. If Courts have allowed Congress to grant these other rights to the District citizens surely they will allow us to grant these citizens the most basic rights of citizenship.

The purpose of this Dear Colleague is not to convince Members that the Constitution soundly supports District representation, but to discourage Members from blindly relying on the Constitution's use of the word "state" as justification for voting against extending voting representation to the residents of the District of Columbia.

Sincerely,

Tom Davis

¹ *Loughborough v. Blake*, 18 U.S. 317 (1820)

² *Callan v. Wilson*, 127 U.S. 540, 548 (1888); see also *Capital Traction Co. v. Hof*, 174 U.S. 1, 5 (1899) ("It is beyond doubt, at the present day, that the provisions of the Constitution of the United States securing the right of trial by jury, whether in civil or in criminal cases, are applicable to the District of Columbia.").

³ *Stoutenburgh v. Hennick*, 129 U.S. 141 (1889)

⁴ *Loughran v. Loughran*, 292 U.S. 216, 228 (1934).

⁵ U.S. Constitution, Article I, Section 2.